



Montana Fish, Wildlife & Parks

HELENA AREA RESOURCE OFFICE

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April 9, 2003

TO: Governor's Office, Todd O'Hair, Room 204, State Capitol, P.O. 200801, Helena, MT 59620-0801
Environmental Quality Council, Capitol Building, Room 106, P.O. Box 201704, Helena, MT 59620
Dept. Environmental Quality, Metcalf Building, P.O. Box 200901, Helena, MT 59620-0901
Montana Fish, Wildlife & Parks

Director's Office
Parks Division
Fisheries Division
Wildlife Division
Enforcement Division
Lands Section
Design & Construction Bureau
Legal Unit
FWP Commissioners


MT Historical Society, State Historic Preservation Office, P.O. Box 201202 Helena, MT 59620-1202
MT State Parks Association, P.O. Box 699, Billings, MT 59103
MT State Library, 1515 E. Sixth Ave., P.O. Box 201800, Helena, MT 59620
James Jensen, Montana Environmental Information Center, P.O. Box 1184, Helena, MT 59624
Janet Ellis, Montana Audubon Council, P.O. Box 595, Helena, MT 59624
George Ochenski, P.O. Box 689, Helena, MT 59624
Jerry DiMarco, P.O. Box 1571, Bozeman, MT 59771
Wildlife Federation, P.O. Box 1175, Helena, MT 59624
Wayne Hurst, P.O. Box 728, Libby, MT 59923
Glen Hockett, 745 Doane Road, Bozeman, MT 59715
Perry Backus, 65 Redtail, Dillon, MT 59725
Tom Sathers, Headwaters Fish & Game Assoc., P.O. Box 1941, Bozeman, MT 59771-1941
Broadwater County Commissioners, Broadwater County Courthouse, Townsend, MT 59644
Lewis & Clark County Commissioners, 316 N. Parks, Helena, MT 59601
Helena Chapter Walleyes Unlimited, Jay Frederick, 76 Bridle Bit Loop, Clancy, MT 59634
Pat Barnes Chapter Trout Unlimited, Earl Dorsey, 805 Mill Road, Helena, MT 59602
U.S. Bureau of Reclamation, Paul Backlund, 7661 Canyon Ferry Road, Helena, MT 59602

Ladies and Gentlemen:

Enclosed, please find the Final Decision Notice for the Canyon Ferry Reservoir Commercial Carp Permit application submitted by Richard and Donna Greene. I have decided to grant an Experimental Permit for this project with modifications from the original proposal. You will see that conditions for the permit were made to minimize by-catch of non-target fish as well as address the change from transport of live fish out of state to the transport of dead carp to a local (Townsend) processing site.

If you have questions, please don't hesitate to contact either myself at the Helena Area Office (495-3260) or Ron Spoon at the Townsend FWP Office (2664237.)

Thank you for your interest.

Sincerely,

Michael Korn
Helena Area Coordinator



**Montana Fish,
Wildlife & Parks**

DECISION NOTICE:
Canyon Ferry Reservoir Commercial Carp Permit

DESCRIPTION OF THE PROPOSED ACTION

Richard and Donna Greene applied for a commercial fishing permit to harvest carp, longnose sucker and white sucker in Canyon Ferry Reservoir. This application is for an experimental fishery Class X Permit for the period of May 1 through December 31, 2003. The applicants propose to commercially fish carp and suckers using a seine. The seine will be approximately 1000 ft long and 12 feet deep. Mesh size is 3 inches. Fish will be crowded into the seine and all non-target fish will be released alive. Target species will be loaded into fish holding cages and then attached to a 36 ft pontoon boat that will be used to transport fish to off-loading locations. A 25 ft long conveyor system will be used to load fish from the pontoon boat into transport trucks. Non-target species that were not released during the seining process may also be removed from the live cages suspended from the pontoon boat prior to entering the conveyor system.

The fate of carp removed from Canyon Ferry Reservoir will depend on available markets. The original proposal was to move live fish. For such actions, a transport permit from FWP would be required to all transport live carp in Montana. However, the applicants have changed plans and do not wish to transport live fish. Killing the fish on-site and not transported in water from Canyon Ferry Reservoir eliminates most concerns related to the spread of disease and exotic species. Dead carp and associated fish parts must still be disposed of in an appropriate landfill.

PUBLIC PROCESS AND COMMENT

The public comment period began March 7, 2003 and ran through March 28, 2003. A regional press release was issued during the comment period. The public was provided an opportunity to comment on the proposal during the March 13 Commission meeting in Helena.

Four formal comments were received during the comment period. Additionally, following the close of the comment period, additional substantive issues were raised regarding the permit. The comments are summarized below:

- Comment: Do not allow suckers to be removed because of their importance in the forage base at Canyon Ferry. The applicant should be required to record mortalities of non-target species and live-release of non-target species captured during the process. Removal of carp is positive for the lake.
- Response: Although included in the initial application, suckers will not be part of this permit and as such, are not a target species. Like game fish, suckers will be returned to the water if caught. The permittee will be required to document and enumerate in reports all fish species caught and/or handled daily, including final disposition (caught, released, released alive, released dead, etc.)
- Comment: Please help the applicant receive the permit because the operation could be an asset for the lake and the fishermen to get rid of the trash fish.
- Response: The department concurs that there are potential positive effects of this permit.
- Comment: The Bureau of Reclamation (BOR) expressed concern with being able to meet the May 1 permit date mentioned in the EA to prepare a special use permit for the unloading facilities.
- Response: Because of the timeline that the permittee would like to follow, permitting with BOR may become an issue. The BOR is currently working with the permittee to develop appropriate regulations for the handling facility and once complete, explore expedited means of issuing a Special Use Permit for the handling site.
- Comment: Killing or crippling non-target species is a problem, as is the overwhelming risk of live transportation west of the divide, which in no way should be permitted. Please record my comments as opposing the current plan unless the carp are transported dead and there is a much more detailed description of how the operation intends to deal with non-target species.
- Response: Mortalities will invariably occur but because of the method that is to be employed in this operation, FWP believes that the killing or crippling of non-target species will be kept to an absolute minimum. The system involves using a 3" mesh net to "corral" fish into a cage where they are selectively removed. Non-target fish will be removed and released from this cage. As this would be an Experimental Permit under FWP supervision, modifications to this system that would further minimize harm to non-target fish will be explored and used during the course of the permit's duration.
Since application was initially made, the use of the carp taken has changed. The State of Washington has said that they will not allow the

transport of live fish into their state. In addition, concerns over the transport of live fish associated with the spread of disease and the placement of non-native species in inappropriate areas are significant issues. Therefore, under this permit, live fish will not leave Canyon Ferry. Harvested fish will be taken from Canyon Ferry Lake directly to a facility in Townsend for processing. Other options that may present themselves in the future for the permittees will be restricted to no live transport.

Comment: Will FWP have the ability to shut down the operation either on a daily basis or for the year, during the Experimental (Class X) year, if significant problems arise (recreational conflict, unacceptable game fish by-catch/stress/mortality)?

Response: Under 87-4-609 MCA FWP has the authority to give and condition permits for the commercial taking of aquatic fish food species. If the conditions, restrictions or terms of the permit are violated or, if overharvest or conflict with recreational use of the waters occurs, FWP may require the suspension of operations or revoke the permit.

Comment: Can FWP set criteria for game fish by-catch, either on a daily and or yearlong basis, in the form of numbers of game fish captured and/or killed and/or proportion of total catch which is game fish by-catch?

Response: While game fish by-catch is anticipated to be low, permittee will be required to stop fishing with 48 hour notice if stress to and/or mortality of non-carp fish species is excessive. Daily catches which exceed 5% (by number) game fish or 10% (by number) non-game fish other than carp will constitute grounds for suspension of operations, as will a cumulative mortality (during the life of permit) of more than 100 game fish, (yellow perch, burbot, walleye, trout, whitefish, northern pike or bass), or 200 non-gamefish other than carp.

Comment: Will there be time of day restrictions, or will they be able to operate around the clock?

Response: Fishing will take place only during daylight hours by a six-person crew in this project.

Comment: The permittee should be required to be prepared to handle game fish by-catch mortalities so that they can be properly preserved. That way game fish inadvertently killed could be distributed to charitable organizations.

Response: The draft permit required that game fish mortalities be cut in half and returned to the lake. This is consistent with ARM (Administrative Rules of Montana) 12.7.105 that requires all non-target dead fish from commercial fishing operations be cut and sunk. The permittee and FWP would like to explore the possibilities of another method, in which by-catch game fish would be kept in an appropriate manner (iced-down and temporarily stored), cleaned and then distributed to social service organizations. The permittee would be willing to provide means for the keeping and processing of the fish and FWP could coordinate the legal arrangements to involve social service groups such as the Food Bank, etc.

Comment: Would like to see the operator be required to post a suitable bond so that in the event of a real train wreck there would be some funds available for cleanup, picking up the pieces.

Response: ARM 12.7.101 requires a permittee who receives approval post a \$1000 corporate surety bond in favor of the State of Montana and conditioned on the faithful carrying out of the provisions of the application and permit.

Comment: Would citizens be able to observe the operation (up close) on days when FWP personnel are observing and/or when FWP is not present?

Response: Anyone can observe the operation at any time it is functioning.

Comment: Will seining be allowed on fishing derby weekends, especially the Canyon Ferry Walleye Derby?

Response: This operation is to occur on weekdays only. That would eliminate conflicts with fishing derbies. Additionally, there is a closed area that the permittee would not be fishing that goes from 1 mile north of the Pond 1 Dike at Canyon Ferry Wildlife Management Area (which will be marked onshore.) From May 1-September 15, the north boundary for this operation would be White Earth. This is intended to minimize conflicts with recreational users as well as angler conflicts on the south dikes.

DECISION

Based on the analysis in the Environmental Assessment (EA) and the applicable laws, regulations and policies, I have determined that this action will not have a significant effect on the natural or human environment. Therefore, an Environmental Impact Statement will not be prepared.

It is my decision to implement the proposed action with modifications based on additional review by FWP, public comment received during the EA process and modifications proposed by the applicant. The commercial fishing operation will be limited to removal of carp. Longnose and white suckers will not be included in the operation as proposed. There will be no live transport of fish away from Canyon Ferry Lake.

There are several social and biological concerns about specific conflicts that may arise from this project. The experimental status of this permit addresses some of these concerns because this permit is only valid for one year and problems observed during the permit period may be rectified/mitigated prior to any future permitting. Some social or biological conflicts may arise that may ultimately result in the need to modify or even abandon the commercial operation. Significant catch of non-target fish or wildlife species that causes significant stress or mortality of these species would be one such example of a conflict that will require the operator to immediately change or abandon the operation. Should such problems arise, FWP would work with the permittee in an effort to resolve the conflict prior to revocation or suspension of the permit. Should the permit be exercised without problem or incident, the department would entertain renewal of this permit or issuance of different permit category.

By notification of this Decision Notice, the draft EA is hereby made the final EA without any modifications or additions. The final EA may be viewed at or obtained from Montana Fish, Wildlife & Parks at the above address. Please direct any further requests or questions to Michael Korn, Helena Area Coordinator, Region 3, or Bruce Rich, Fisheries Manager, Region 3.

 , April 9, 2003
Michael Korn
Helena Area Coordinator

**TENTATIVE
2003 COMMERCIAL FISHING REGULATIONS
FOR CANYON FERRY RESERVOIR**

These regulations will be in effect from January 1, 2003 through December 31, 2003.

1. FISHING SEASON

- a. Commercial fishing is permitted from May 1, 2003 to December 31, 2003 in portions of Canyon Ferry Reservoir south of White Earth.
- b. Commercial fishing is permitted from September 15, 2003 through December 31, 2003 in portions of Canyon Ferry Reservoir north of White Earth.
- c. No fishing will be conducted on Holidays. Weekday activity will be conducted to avoid any conflict with recreational users.

2. FISHING AREAS

The regulations provide for the harvest of carp with seines operated in specific parts of Canyon Ferry Reservoir with the following restrictions:

- a. No setting and anchoring of seines will occur north of White Earth prior to September 15, 2003 to avoid conflicts with recreationists and anglers.
- b. Commercial fishing at the south end of the lake (south of White Earth) will not be permitted prior to May 1st to avoid conflicts with walleye spawning.
- c. Commercial fishing in the vicinity of Duck Creek will avoid the Wildlife Management Area and concentrations of recreational anglers near the dikes by maintaining a buffer of at least 1 mile north of Dike 1. This point will be clearly marked on the shoreline.
- d. Commercial fishing will avoid all public boat launch facilities and other popular bays for fishing and boating.

3. OTHER RESTRICTIONS

- a. Fishing activity should be conducted in a manner that minimizes disturbance of waterfowl and avoids western grebes. Incidental catch of birds must be reported in your monthly reports to FWP.
- b. Permittee must notify the Department of seasonal schedule of operations prior to fishing.
- c. A Department representative will be allowed to accompany the fisherman on occasions to observe or to collect biological data.
- d. A summary of fishing activities and catch are to be submitted on forms provided by the Department. The report should indicate the dates and locations of fishing efforts.
- e. Off-loading sites will be determined and permitted by the U.S. Bureau of Reclamation.